

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

craigslist, Inc.,

NO. C 08-05067 JW

Plaintiff,

v.

**ORDER TO PRODUCE FURTHER
EVIDENCE OF STATUTORY DAMAGES
ASSOCIATED WITH MOTION FOR
DEFAULT JUDGMENT**

Paul Hubert, et al.,

Defendants.

A hearing on Plaintiff's Motion for Default Judgment is set for March 8, 2010.¹ Plaintiff seeks a judgment of default against Defendant Paul Hubert, in addition to injunctive and monetary damages and attorney fees and costs. (Motion at 17-21.)

The Court finds that it has insufficient evidence before it to make a reasonable determination of statutory damages under the Digital Millennium Copyright Act ("DMCA"). Defendant presents screen shots indicating that craygo.com sold bundles of "CAPTCHA credits" ranging in price from 1000 for \$150 to 100,000 for \$1000.² The Court finds unpersuasive Plaintiff's contention that each CAPCHA credit that craygo.com offers for sale on its website constitutes a separate offer to circumvent Plaintiff's security wall. (See Motion at 20.) Instead, the Court is inclined to measure each offer of a bundle of credits as a single infringement for purposes of measuring statutory

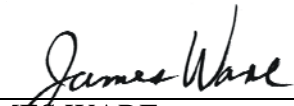
¹ (See Plaintiff Craigslist, Inc.'s Motion for Default Judgment Against Paul Hubert, hereafter, "Motion," Docket Item No. 53.)

² (See Declaration of David E. Weeks in Support of Plaintiff Craigslist, Inc.'s Motion for Default Judgment Against Defendant Paul Hubert, Ex. 4, Docket Item No. 56.)

1 damages. Since the Court is not bound to accept as true Plaintiff's allegations regarding the amount
2 of damages, Plaintiff must provide the Court with evidence of how many bundles of CAPCHA
3 credits Defendant offered for sale in order to calculate statutory damages pursuant to the DMCA.

4 Accordingly, on or before **March 2, 2010**, Plaintiff shall file with the Court additional
5 evidence of the number of bundles of CAPCHA credits Defendant offered for sale.

6
7 Dated: February 25, 2010



JAMES WARE
United States District Judge

1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

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5 **Dated: February 25, 2010**

Richard W. Wieking, Clerk

7 **By: /s/ JW Chambers**
8 **Elizabeth Garcia**
9 **Courtroom Deputy**
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